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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Roberts et al.	:	DECISION ON
Application No. 10/816,452	:	APPLICATION FOR
Filed: 03/31/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
01374-294	:	

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)" filed on June 8, 2010. Applicants request that the Patent Term Adjustment for the above-identified patent be corrected from 1189 days to 1348 days.

The application for patent term adjustment patent is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On March 8, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1189 days (1438 days of Office delay reduced by 249 days of applicant delay). The subject application for patent term adjustment was timely filed on June 8, 2010.¹

Applicants dispute the reduction of 159 days for the filing of the Supplemental Amendments on February 4, 2010, and February 17, 2010, respectively, after the filing of a reply on September 11, 2009. Applicants contend that the Supplemental Amendments were expressly requested by the examiner. Given these

¹ PALM records shows that the Issue Fee was received on June 8, 2010.

assertions, applicants maintain that the PTA at the time of the mailing of the notice of allowance is 1348 days.

37 CFR 1.704(c)(8) provides that the filing of a supplemental reply, other than one expressly requested by the examiner, constitutes a failure to engage in reasonable efforts to conclude processing or examination. The record has been reviewed and it is concluded that the Supplemental Amendments filed on February 4, 2010, and February 17, 2010, were expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the 159 day reduction is not warranted and will be removed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days (1438 days of PTO delay, reduced by 90 (249 - 159) days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Anthony Knight
Director
Office of Petitions

Encl: Revised PAIR Calculation



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 10816452 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10816452

Application Filing Date 03/31/2004	Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 1438
A Delays 1438	PTO Manual Adjustment 159
B Delays 0	Applicant Delay (APPL) 249
C Delays 0	Total PTA (days) 1348

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
46	09/25/2010		P028	Adjustment of PTA Calculation by PTO	159	0	0
38	03/08/2010	01/11/2010	MN/-	Mail Notice of Allowance	56	24	0
37	03/02/2010		IREV	Issue Revision Completed		0	0
36	03/02/2010		DVER	Document Verification		0	0
35	03/02/2010		N/E	Notice of Allowance Data Verification Completed		0	0
34	03/01/2010		CNTA	Notice of Allowability		0	0
33	02/17/2010		FWDX	Date Forwarded to Examiner		0	0
32	02/17/2010	09/11/2009	SA..	Supplemental Response		159	24
31	02/17/2010		FWDX	Date Forwarded to Examiner		0	0
30	02/04/2010		SA..	Supplemental Response		0	0
25	10/27/2009		FWDX	Date Forwarded to Examiner		0	0
24	09/11/2009	06/13/2009	ELC	Response to Election / Restriction Filed		90	22
23	09/11/2009		XT/G	Request for Extension of Time - Granted		0	0
22	03/13/2009	05/31/2005	MCIRS	Mail Restriction Requirement	1382	-1	0
21	03/12/2009		CTRS	Requirement for Restriction / Election		0	0
20	03/02/2009		DOCK	Case Docketed to Examiner in GAU		0	0
19	02/11/2009		DOCK	Case Docketed to Examiner in GAU		0	0
18	12/30/2008		DOCK	Case Docketed to Examiner in GAU		0	0
17	10/06/2008		DOCK	Case Docketed to Examiner in GAU		0	0
16	10/17/2007		WS25	Withdraw Flagged for 5/25		0	0
15	10/15/2007		FS25	Flagged for 5/25		0	0
14	01/24/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0	0
13	01/24/2006		DOCK	Case Docketed to Examiner in GAU		0	0
12	09/08/2004		T11050	Transfer Inquiry to GAU		0	0
11	08/31/2004		WRDIPE	Application Return from DIPE		0	0
10	08/31/2004		ROIPE	Application Return TO DIPE		0	0
9	08/31/2004		OIPE	Application Dispatched from DIPE		0	0
8	08/31/2004		COMP	Application Is Now Complete		0	0
7	08/10/2004		ADDFEE	Additional Application Filing Fees		0	0
6	08/10/2004		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant		0	0
5	06/14/2004		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned		0	0
4	05/05/2004		L194	Cleared by OIPE CSR		0	0
3	05/05/2004		CLSS	CASE CLASSIFIED BY OIPE		0	0
2	04/14/2004		SCAN	IFW Scan & PACR Auto Security Review		0	0
1	03/31/2004		TEOX	Initial Exam Team in		0	0

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